

**Mallu and Others Vs. The State of Karnataka, represented by the PSI.,
Bijapur and Others**

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Court : Karnataka Kalaburagi

Decided On : Mar-05-2015

Judge : K.N. Phaneendra

Appeal No. : Crl.P. No. 201108 of 2014 C/W Crl.P. Nos. 201109, 200597 to
200614 of 2014

Appellant : Mallu and Others

Respondent : The State of Karnataka, represented by the PSI., Bijapur and
Others

Judgement :

(Prayers: This Criminal Petition is filed under Section 482 of Cr.P.C., praying to quash all further proceedings pursuant to charge sheet dated 18.09.2014 filed by the respondent in C.C.No. 2053/2014 (arising out of Gandhi Chowk P.S. Crime No. 138/2014) pending on the file of Honble I-JMFC Court, Bijapur, with respect to petitioner.

This Criminal Petition is filed under Section 482 of Cr.P.C., praying to quash all further proceedings in Crime No. 152/2014 pending in the Court of the FIRST J.M.F.C., at Bijapur for the alleged offences punishable under Sections 143, 147, 148, 427, 307, 120(B), 504 and 506 R/w Section 149 of IPC dated 27.05.2014 on

the complaint filed by the respondent No. 2 dated 27.05.2014.

This Criminal Petition is filed under Section 482 of Cr.P.C., praying to quash all proceedings in Crime No. 140/2014 pending in the Court of the First J.M.F.C., at Bijapur for the alleged offences punishable under Sections 143, 147, 148, 324, 354, 153, 295, 504 and 506 r/w Section 149 of IPC dated 26.05.2014 on the complaint filed by the respondent No. 2 dated 26.05.2014.)

Common Order:

1. Petitioner in all the above said cases are the accused persons arraigned in different Crime Numbers.

2. It is contended by the learned counsel for the petitioners that though all the above said crime numbers including the cases in which the charge sheets have been filed in C.C.No.2053/2014 and 2054/2014 arising out of the Crime Nos. 138/2014 and 137/2014 on the file of the Gandhi Chowk Police Station in respect of the same transaction and incident, the police have registered different crime numbers in order to cause inconvenience to the accused persons. Therefore, it is contended that the alleged offences committed by all the above accused persons (petitioners) ought to have been consolidated and ought to have been filed one comprehensive charge sheet and should not have registered different crime numbers and investigated independently by filing separate charge sheets on the basis of each and individual crime number.

3. Learned Additional S.P.P. who is appearing for the State in all the above said cases defended Gandhi Chowk Police submitting that, though the incident has happened on 25.06.2014, the time of the incident is shown as between 5.30 to 6.00 p.m., but there are different acts alleged against different accused persons and the aggrieved persons are also different. Therefore, they have filed independent complaints, as such, the police have registered independent crime numbers. Though he contends that independent complaints are registered, but incident and object of the incident are of one and the same transaction and it happened between 5.30 to 6.00 p.m. on that particular day. Therefore, he submits that if the Court comes to the conclusion that the whole incident has taken place

constituting common transaction, the Court may issue appropriate direction to the jurisdictional Court as well as to the jurisdictional police in this regard.

4. In order to appreciate the above said rival contentions, it is just and necessary for this Court to have the brief factual matrix of the case. I would like refer to the facts which relates to Crime Nos. 137 and 138 of 2014 which were culminated in C.C.Nos.2054/2014 and 2053/2014 respectively and thereafter, I would like to deal with the contents of the FIR in Crime No. 139/2014 and others.

4(a) In Crl. P. No. 201109/2014 pertaining to Crime No. 137/2014, the police have registered a case for the offences punishable under Sections 143, 147, 148, 336, 353, 333, 307, 504, 506 r/w. section 149 of IPC. A person by name B.R. Simpi, CPC-363 of Bijapur Rural Police, lodged a complaint specifically stating that on 26.05.2014, the complainant and other police personnel went near Janatha Bazaar on Badhobust duty, as some people were celebrating joy in the context of Sri. Narendra Modis swearing in as Prime Minister of India. While discharging their duties the police went to near Janatha Bazaar, for bundobust at that time, the accused Ageeba son of Mobin Inamdar, Ali Bagawan, Moinuddin Bilage and other 40 to 60 persons holding deadly weapons in their hands like clubs, iron-rods etc. were hurling abusive words and also prevented the police personnel from discharging their duty, created mob and assaulted the complainant with the iron-rod etc. It is specifically stated that the said incident has happened at about 6.00 pm. The further statement of the said Simpi was recorded on 27.05.2014, in which he has improved his statement stating that, on that particular day of the incident, about 100 to 120 people were gathered near Janatha Bazaar and they were throwing stones and hurling slogans and giving threatening calls to the police and other mob, and he gives the details of about 140 accused persons stating that they were all present at the time of incident and committed such offences. On the basis of such information, after due investigation, the police have submitted the charge sheet in Crime No. 137/2014 which culminated in C.C.No. 2054/2014.

4(b) In Crl. P. No. 201109/2014 pertaining to Crime No. 138/2014 is concerned, one person by name Namdev, son of Jnanadeva Pawar, who was working as ARSI of Bijapur IRB Branch, lodges another FIR on similar set of facts stating that,

on 26.05.2014 at about 4.00 pm. He received an information through wireless phone directing him to move to Gandhi Chowk Police Station and to report. Accordingly, he went there and from there, he went near Gandhi Circle, for discharging his Bhandobasth duty at about 5.00 pm. He also states that about 60 to 70 persons gathered there and they were all hurling slogans and they have even assaulted the police and caused lot of damage to the public property in the surrounding area, etc., therefore, he filed FIR and registered a case for the similar offences as noted in Crime No. 137/2014 and on the basis of that, the police have also completed investigation, which is culminated in CC. No. 2053/2014.

4(c) Very peculiarly what is observed by this Court is that, in the operative portion of two charge sheets, in Column No. 17, the allegations made in both the charge sheets are word to word are same. Only the difference is that, in one case, it is mentioned that the incident started at 5.00 pm. and continued upto 6.00 pm. Therefore, looking to the said two charge sheets, it is clear that absolutely the incident is same and no separate incident has taken place and it appears the entire incident taken place with reference to same object. The factual aspects are also similar and there is absolutely no difference between the said two cases, as such, there was no necessity for the police to register two criminal cases in two crime numbers and to file two charge sheets.

4(d) Now coming to Crl. P. No.200610/2014 which pertains to Crime No. 139/2014, a person by name Shafiq, son of Kudha Baksh Bagawan has stated that, on 26.05.2014 i.e., the date of incident, in the evening at about 4.30 to 5.00 pm. near Nehru Market, this complainant was doing his business and a person by name Basanagouda Patila Yatnal along with about 40 to 60 persons came there and started abusing this complainant and others, and they were all holding deadly weapons like club, knife, etc. and they were all threatening the complainant and others with dire consequences of killing them and in fact in the Melee, the said accused persons have assaulted some persons and also damaged some properties in the surrounding area.

4(e) In Crl. P. No. 200606/2014 pertaining to Crime No. 140/2014, two ladies by name Jannath Bi and Razaak Bi have also filed another complaint narrating similar

set of facts involving almost same accused persons, stated that at some time between 4.30 to 5.00 pm., some persons by name Umesh Vandala, Parasshiram Rajaputha, Gurugachchinamath, Basanagouda Patil Yatnal, along with about 40 to 50 persons came to that particular place called Nehru Market and committed offences 143, 147, 148, 324, 354, 153, 295, 504, 507 r/w. 34 IPC. Apart from that, the complainants have also stated that the accused persons have outraged the modesty of the ladies etc. The police have registered the case under Section noted above.

4(f) In another case in Crime No.141/2014 (Crl. Petition No. 200609/2014) a person by name Taheer Jakeer Hussain lodges similar complaint stating that the incident occurred at 4.30 to 5.00 pm., near Nehru Market. He also alleged that some persons headed by Basanagouda Patil Yatnal, about more than 100 persons came there and assaulted the complainant and others and damaged the properties, committed various offences. The said case was also registered for similar offences U/Secs. 143, 147, 143, 324, 354, 295, 153, 504, 506 R/w Sec. 149 of Indian Penal Code. Another set of crime numbers were registered in Crime Nos. 142/2014, 152/2014 to 164/2014 and 166/2014 by the same police. In the said cases also, it is alleged that on the same day on 26-05-2014 at about 6.00 pm., when he was near Masjid, group of 100 - 150 members came in a rally raising slogans and assaulted people throwing stones, chappals, etc, on the Masjid and they were also hurling slogans to affect the religious feelings of Mohammedans etc.

4(g) In similar manner in other first information reports also several persons have given independent information to the police, but the gist of the F.I.R. at column No. 12, show that on 26-05-2014 between 5.30 and 6.00 p.m., about 100 - 150 persons illegally gathered and proceeding in a procession, in that continuity of the procession they have committed several offences, though the different cases have been registered in the first information report, the gist in all the cases clearly discloses that it is the continuation of the act of group of persons who are accused Nos. 1 to 145 as noted in Crime No. 137/2014. Though in different cases different accused persons shown to have been involved, but totally the entire group was proceeding in a rally in order to celebrate the concur of Bhartiya Janata Party and

that Sri Narendra Modi taking oath as Prime Minister of India.

5. Bringing it to the notice of this Court the above said fact, learned counsel for the petitioners strenuously contended that it is the entire incident which started from 4.30 to 6.00 p.m., is nothing but out of same transaction and the rally was started at 4.30 p.m., according to some of the informants to the police and during that rally upto 6.00 p.m., several accused persons alleged to have done some illegal acts against several persons and damaged the property of several persons who are running shops, residing in the said area where the procession was proceeding. Therefore, for each and every information the police cannot register independent cases and file charge sheets so as to make the different accused persons to appear before the Court on each and every crime number on different dates. Therefore they contended that the Investigating Officer with a deliberate intention and to cause inconvenience and injustice to the accused persons has ventured upon to register independent crime numbers on the basis of each and every information given by the aggrieved person in respect of common course of transaction alleged to have been done by the accused persons. Therefore, such crime numbers have to be quashed and in one crime number which was registered at the initial stages first in point of time has to be investigated and whatever the material collected by the Investigating Officer, during the course of investigation in connection with the said case as if continuous transaction is alleged that should be incorporated in the same case and one charge sheet ought to have been filed by the police in this regard. Therefore registering of several crime numbers filing of several charge sheets show the indiscipline on the part of police agency, which definitely cause great inconvenience and injustice to the petitioner herein. Therefore they have pleaded for quashing of the crime numbers registered independently by the police.

6. Per contra, learned Addl. State Public Prosecutor contended that the incident started though at 4.30 p.m., but different acts have been done by the accused persons. Therefore the affected persons have lodged informations before the police, of-course the police could have looked into the contents of all the subsequent informations should have taken wise decision, whether incident happened in a common course of transaction, the said acts have been done by

the accused persons, whether in only one case investigation should be done. Therefore it is left to discretion of the Court to pass appropriate orders in this regard.

7. In this regard, before passing any order, it is just and necessary to rely upon certain ruling of the Honble Apex Court, in such circumstances what has to be done.

8. In a decision reported in 2001 SCC (Cri) 1048 in the case of T.T. Antony Vs. State of Kerala and others with other connected appeals, the Honble Apex Court has disposed of the cases. Before adverting to the principles laid down in this particular case, I feel it is necessary and relevant to peruse the facts and circumstances of the case of that case narrated at para Nos. 3 and 4, which is as under:

The Communist party of India, (Marxist), CPI (M), is said to have a stronghold in Kannur District of the State of Kerala, One Mr. M.V. Raghavan who was once a comrade-in-arms in CPI (M) and was its MLA for over 15 years, broke away from that party and formed a new party - the Communist Marxist party (CMP). He was elected as an MLA on the ticket of CMP from Azheekkode Constituency, Kannur District. CMP became a constituent of the United Democratic Front (UDF) which formed the Government and was in power of in the State of Kerala during the relevant period. He was a Minister in the UDF Government having the portfolio of Cooperation and Ports. This gave rise to retribution in the rank and file of CPI (M) particularly in the youth wing (DYFI) which took upon itself to prevent his visits to Kannur District. In the January 1993 during his visit to Azhikal (Kannur District) a few country-made bombs were hurled at him. In view of that incident, the then Government ordered elaborate security arrangements for all his visits to Kannur District. It appears, much against the advice of the district administration, the Minister finalized his visit, for inauguration of the evening branch of Cooperative Urban Bank in Alakkandy Complex at Kuthuparamba - Tellicherry Road (Kannur District) on 25-11-1994.

Far from being auspicious, it turned out to be an ill-starred day not only for the victims of police excesses and their families but also for the public and the public

authorities as five persons died and six persons were injured in the police firing purportedly resorted to for the protection of the Minister and of public and private properties. In the melee which preceded the police firing, more than hundred persons suffered injuries in the lathi-charge and a few police personnel also sustained injuries.

4. The police opened fire at two places: (i) in the proximity of the Town Hall on the orders of the Executive Magistrate and the Deputy Superintendent of Police, and (ii) in the vicinity of Police Station, Kuthuparamba on the orders of Superintendent of Police. In respect of the occurrence near the Town Hall, the Assistant Superintendent of Police of Thalassery registered Crime No. 353 of 1994 of Kuthuparamba Police Station under Sections 143, 147, 148, 332, 353, 324 and 307 read with Section 149 of IPC., Sections 3(2) (e) of the PDPP Act and Sections 3 and 5 of the Explosive Substances Act against the eight named and many other unidentifiable persons belonging to CPI (M) including the President of DYFI. In regard to the occurrence in the vicinity of the police station, the Superintendent of Police registered Crime No. 354 of 1994 of Kuthuparamba Police Station under Sections 143, 147, 148, 427 and 307 read with Section 149 of IPC and Section 3(2) (e) of the PDPP Act against unidentifiable persons of CPI (M) for forming an unlawful assembly. Both the said crimes were registered on the date of incident - on 25-11-1994. On that day itself the Executive Magistrate submitted a report to the District Collector who in turn informed the Commissioner and the Secretary to the Government regarding the police firing at Kuthuparamba (Ext. P-3). On 26-11-1994, the Superintendent of Police sent a report of the incident of the previous day to the Director General of Police, Kerala (Ext. P-4)

9. On the basis of the factual matrix, the Honble Supreme Court of India has considered that two F.I.Rs. have been registered by the police with reference to the same transaction, it held that though it was registered two crime numbers, it is nothing but continuation of the same crime and those two incidents happened out of the same transaction. After considering the above said factual aspects the Honble Apex Court has laid down certain principles and guidelines which are narrated at Paragraph Nos. 19 and 20 of the decision which reads as follows:

19. The scheme of Cr.P.C. is that an offence in charge of a police station has to be commence investigation as provided in Section 156 or 157 of Cr.P.C. on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 of Cr.P.C., as the case may be, and forward his report to the Magistrate concerned under Section 173(2) Cr.P.C. However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the Court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of section 173 of Cr.P.C.

20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of Cr.P.C. only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 Cr.P.C. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offences or the receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more report as provided in Section 173 Cr.P.C.

10. On meaningful understanding of the above said decision, it amply makes it clear that the Investigating Officer as soon as he receives first information report with regard to the commission of cognizable offences, he has to start the investigation into the matter. Any subsequent information he receives with regard to any incident out of the same incident or with regard to any incident out of the same transaction, he shall not register further crime numbers but he shall treat that information as the statement of the witnesses either under Section 162 of Cr.P.C., or Section 161 of Cr.P.C. He is empowered to seize any property, record the

statement of any of the witnesses or arrest any accused persons whose names are surfaced subsequently by examining the witnesses who are connected with such case and ultimately, he has to culminate the entire investigation papers and come to the conclusion to ascertain whether whole of the incident, statement of witnesses and collecting of the materials pertaining to the same transaction taken place though at different times and different places. Though in the proximity of place and time if the incident appears to be different, but considering the totality of the circumstances when actually incident started, how it gone on and where it actually ended, the Investigating Officer has to analyze and thereafter, take a decision to file comprehensive common or single charge sheet comprising of all the investigating materials to the Court.

11. In this background, yet another ruling of the Apex Court requires to be quoted here.

In a decision reported in AIR 2013 SC 3794 in the case of Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and another, the Apex Court gave direction to CBI to investigate and file a report in a particular case. After the investigation, the CBI files fresh first information report. Maintainability of the second first information report was questioned. Second information report in respect of an offence or different offences committed in the course of the same transaction is not only impermissible but it violates Article 21 of the Constitution. The Apex Court has cautioned that the Courts have to examine the facts and circumstances giving rise to both the first information reports, add the test of sameness to find out whether both the first information reports relate to the same incident in respect of the same occurrence or are in regard to the incidents having two or more parts of the same transaction. It further held that if the answer is in the affirmative, second FIR is liable to be quashed. It was further held that in case the contrary is proved, where the version in the second FIR is different and is in respect of the two different incidents/crimes, the second first information report is then only permissible. It further explained that in case in respect of the same incident, the accused in the first FIR comes forward with a different version or counterclaim, then only on both the first information reports investigation has to be conducted. It is clear from the decision that if two first information reports

pertaining to two different incidents/crimes/transaction, second first information report is permissible.

12. What is to be gathered from the above said decision is that if the police have registered a criminal case with reference to a cognizable case on the basis of the information received first in point of time, they should very carefully investigate the matter and find out any subsequent statements of the witnesses or any information with regard to some more accused persons are involved in that particular case and some properties have to be seized in connection with the said case. He should first ascertain whether subsequent information refers to the incident and transaction already taken place and with reference to that already a case has been registered and then he has to continue the investigation in the same crime number. The subsequent information arising out of the same transaction though it happened at different places, at different times, but the proximity of the time and place have to be very curiously considered by the Investigating Agency. This clears out the doubt that from the beginning of the incident, up to the ending of the transaction if it is looked into what has been transpired and taken place and how many accused persons have been involved and what damage that has been occurred and how many injured persons have sustained injuries, all these things still come in the same transaction, in such an eventuality, registration of different crime numbers is not proper and correct proper and correct. But the Investigating Officer should also take care that if in the same transaction a counter case is claimed or a counter case is registered, then though it is taken place in the same transaction that cannot be investigated in the same case. The counter case is altogether a different case that has to be proved by different persons against accused, who may be complainant and witnesses in another case. Therefore, in such an eventuality only, second FIR is permissible and if proximity of time and place is so inconceivable to come to a conclusion that they are out of the same transaction then only second first information report is also permissible.

13. The Apex Court in another ruling reported in 2013 (6) SCC 384 in the case of Anju Chaudhary Vs. State of Uttar Pradesh and another considering test of sameness and same transaction, commonality of the offences committed, the determining factors has been laid down with certain guidelines in the said case

holding that the second first information report is not permissible in respect of same offences or incident or incidents forming part of the same transaction as contained in first information report and subsequent informations. The Apex Court has laid down the following guidelines at paragraphs 41 to 45, which reads thus:

41. Thus, the Magistrate exercises a very limited power under Section 156 (3) and so is its discretion. It does not travel into the arena of merit of the case if such case was fit to proceed further. This distinction has to be kept in mind by the court in different kinds of cases. In the present case, the learned Magistrate while passing the order dated 29-7-2008, had not dealt with the case on merits, but on a legal assumption that it was not a case to direct investigation because investigation was already going on under FIR No. 45 of 2007. Once it is held as done by us above, there were two different and distinct offences committed by different persons and there was no commonality of transaction between the two. We do not find any error of jurisdiction in the order of the High Court requiring the learned Magistrate to deal with the cases afresh and pass an order under Section 156 (3) of the Code. Once, that view is taken, the direction passed by the learned Magistrate directing further investigation under Section 156(3) can also not be complied with though there is no specific challenge to that order before us.

42. Thus, we are called upon to deal with from the point of view as to whether the investigating agency should be restrained from conducting further investigation or there should be stay of such investigation.

43. It is true that law recognizes common trial or a common FIR being registered for one series of acts so connected together as to form the same transaction as contemplated under Section 220 of the Code. There cannot be any straitjacket formula, but this question has to be answered on the facts of each case. This Court in *Mohan Baitha v. State of Bihar* (SCC pp. 354-55, para 4) held that the expression same transaction from its very nature is incapable of exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense in the ordinary use of language must decide whether or not in the very facts of a case, it can be held to be one transaction.

44. It is not possible to enunciate any formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. Such things are to be gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design. Where two incidents are of different times with involvement of different persons, there is no commonality and the purpose thereof different and they emerges from different circumstances, it will not be possible for the Court to take a view that they form part of the same transaction and therefore, there could be a common FIR or subsequent FIR could not be permitted to be registered or there could be common trial.

45. Similarly, for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another in point of purpose or of cause and effect, or as principle and subsidiary, so as to result in one continuous action. Thus, where there is a commonality of purpose or design, where there is a continuity of action, then all those persons involved can be accused of the same or different offences committed in the course of the same transaction.

14. The sum and substance of the above said guidelines clearly indicate the responsibility of the Investigating Agency and also the Courts if several cases are registered with reference to the same transaction. It is abundantly made clear that if several offences though committed, if they are part of the same transaction the test to be applied is whether they are arising out of the same transaction or commonality of the allegations are there, whether two or more acts constitute same transaction. Such things are to be gathered from the conspectus of the entire gamut of the case in the hands of the Investigating Officer. The circumstances indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design play very dominant role in considering whether it is continuous process or the whole of the incident has taken place constituting the same transaction. If there is no commonality, proximity in time and place then only subsequent FIR can be registered.

15. Applying the above said principles, as could be seen from the factual matrix of this case, even at the cost of repetition, it is just and necessary to note here that at the time when Crime Nos. 137/2014 and 138/2014 were registered, the first information report in the said case discloses that at about 4.00 p.m., the police have received information that some procession would go on near the market area and there are more than hundreds of people gathered there. Therefore, some of the police personnel were deployed to control the mob. In this context, it is clearly elucidated in the FIR in Crime No. 138/2014 by S.K. Chawan who lodged the first information report that lot number of police were deployed along with the first informant to go near Gandhi Circler and also to market place at 4.00 p.m. itself. It is categorically stated that the police people went near Gandhi Circle near a market Bazaar at 4.00 p.m. itself. The subsequent information report as culled out by me show that the incident commenced from 4.30 p.m. to 6.00 p.m., several persons who were injured and several persons whose properties were damaged and several ladies whose modesty alleged to have been outraged lodged different information reports. This clearly indicates that mob started procession from 4.30 p.m. to 6.00 p.m. It appears a mob went on committing several offences and ultimately, crowd was disbursed at 6.00 p.m. or 6.30 p.m. This clearly indicates that the object of the mob was only one i.e., they wanted to celebrate win of BJP in the general elections and Narendra Modi being sworn as Prime Minister of India. With that object, mob proceeded and in the meantime, due to some discrepancy and due to some commotion and communal difference the mob became violent and it resulted in committing various offences by several accused persons who are petitioners before this Court in different crime numbers. Therefore, by looking to the above said circumstances, it can be said that the petitioners are alleged to have committed offences at different places in continuity with the said object and also proximity of time and place are not so long in commission of such offences. The entire transaction started at 4.30 p.m. and ended at 6.00 p.m. Therefore, it cannot be said that different transactions have been taken place and proximity of time and place is not so lengthy so that the police can register different first information reports and crime numbers and file various charge sheets. The Investigating Officer must be very careful in dealing with such matters. He has to consolidate all the statement of the witnesses till he completes the investigation on

the first information report received at the earliest point of time which was first in point of time. It appears, that care has not been taken in this particular case by the Investigating Agency. In this background, it is also worth to refer to a decision of this Court reported in 2012(3) KCCR 1734 in the case of Ningappa Parasappa Pujari and others Vs. The State of Karnataka, wherein stringent caution has been given to the police officials. It has held that, -

If there is any crime committed by any person, the duty of police is to go to spot and collect the evidence and register the case as required under Section 154 of Cr.P.C. However, registering several crime for the same incident, only shows that the police instead of making investigation the offence, if any, has simply registered several case, it definitely reflects the conduct of the police officer. The conduct of the police officer in registering different crime for same incident, only show that the police officer has done it deliberately to implicate these accused in as many cases as possible. It is nothing but abuse of power and brings disrepute to the police department. It amounts to misusing the power and authority vested in the police. Considering the fact and circumstances and the fact that other crimes for the same incident against the present accused have already been ended in acquitted, the present proceedings were quashed.

16. The above said guidelines are not strictly applicable to this case, because first information report was quashed on the ground that some of the accused were already acquitted in a case already tried by the Court. Nevertheless, caution issued by this Court in the said decision clearly indicates that the Investigating Officer committed such an error in registering several criminal cases, only with an intention to harass and cause inconvenience to the accused persons. Serious action should be taken against such officers. But if the act has been done in good faith or act has been done in ignorance of procedural law, and that has to be ascertained by the competent authority as to whether the act on the part of the Investigating Officer is deliberate or whether such an act requires any disciplinary action against such an Officer.

17. Looking to the above said factual aspect pertaining to this case and law laid down by the Apex Court, it is clear that the whole of the incident that started from

4.30 p.m. to 6.00 p.m. are taken place in the same transaction and they have been done within short proximity of time and at nearby places, the mob has proceeded with a common object, the commonality is evident from the circumstances. Therefore, the Investigating Officer has failed in his duty in ascertaining that the whole of the incident taken place with the common object and when common object is established, and whether the transaction that takes place with that common object within short proximity of time and place, several crime should not have been registered.

18. Even if such first information reports have been registered in ignorance of any law or the observations of the superior courts, the Investigating Officer atleast after it comes to his knowledge has to mend his conduct and thereafter, he has to take steps to correct himself though different crime numbers have been registered, he can make a request to the Court wherein on the basis of the charge sheet already been filed to file additional charge sheet under Section 173 (8) of Cr.P.C., instead of filing various charge sheets. In this background, so far as this case is concerned, the Investigating Officer has to take care and ascertain whether he can make a request to the Court to submit further charge sheets under Section 173(8) of Cr.P.C., in connection with the charge sheets already been filed before the Court by closing the several crime numbers registered pertaining to the same transaction.

19. The learned Magistrates who are dealing with such matters should take care whenever different charge sheets have been filed on the basis of the same factual aspects, on the basis of the same incident and same transaction, and also should look into the commonality of the object, proximity of time and place and the circumstances and consequences of the cases. If necessary, all those cases though registered on the basis of different charge sheets, those cases should be consolidated and should be called on the same day and those cases should be disposed of as if they are arising out of one charge sheet. But the Court should bear in mind and cautious that, all the cases arising out of the common object and common transaction shall be consolidated and should not be clubbed if different charge sheets have already been filed. But they may be called on the same day and they may be disposed of by common judgment if necessary. But if a case and

counter case is registered, those cases can neither be consolidated nor be clubbed, they should be tried separately, however, should be tried simultaneously and the case and counter case should be disposed of by different judgments on the same day.

20. This Court, at the initial stage, has granted Stay so far as the further investigation is concerned. But, in my opinion, looking to the facts and circumstances of the cases, wherein various allegations made in the statement of the witnesses and the first information report in different crime numbers disclose commission of offence by various accused persons though at different places by common mob, the investigation cannot be scuttled. Because, the allegations made in the complaint have constituted offences against the accused persons. Though mathematically it cannot be stated at this stage which accused has committed which offences, nevertheless, when Section 149 of IPC has been invoked by the police and when the mob has committed such offences, that individuality need not be considered at the initial stages but at the time of trial, the Court is at liberty to evaluate the materials on record. Therefore, when allegations made in the complaint constitute offences against the accused persons, the investigation cannot be scuttled and whole proceedings cannot be quashed. The investigation shall continue. But the Investigating Officer should bear in mind the above said guidelines issued by the Supreme Court and this Court and also as observed by this Court and take all necessary steps to complete the investigation and by taking permission of the Court, to file appropriate further report under Section 173(8) of Cr.P.C., by closing different crime numbers registered on subsequent informations.

21. Office is hereby directed to send a copy of this order to the Director General of Police in order to ascertain whether registration of different first information reports by the Investigating Officer in this case is deliberate action on his part or otherwise, if necessary legal action requires to be taken in accordance with law. The Director General of Police is also directed to issue necessary circulars to all the Investigating Officers who are in the helm of affairs to follow the guidelines laid down by the Honble Apex Court cited supra and the observations made in this order. If necessary to circulate the above judgments of the Honble Apex Court and

this Court to the Investigating Officers to follow strictly and meticulously the guidelines issued by the Courts.

22. If the Investigating Officer files any charge sheet on the basis of different crime numbers registered by him, even after applying the above said guidelines of the Honble Apex Court and this Court, aggrieved petitioners are at liberty to approach this Court.

With these observations, the petitions are disposed of.

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